

Introduced by Senator Runner

February 14, 2007

An act to amend Section 6107 of the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

SB 231, as introduced, Runner. Resident contractors.

Existing law establishes procedures for competitive bidding of certain contracts by public entities. Existing law requires a public entity to give a California company a preference on construction contracts as against a nonresident contractor. The preference would be equal to any preference that the nonresident contractor receives on public entity construction contracts in that state, as specified. Existing law defines "California company," among other things, as one that has its principal place of business in a state where there is a local contractor construction preference and the contractor has paid not less than \$5,000 in sales or use taxes to this state for construction-related activity for each of the 5 years immediately preceding the submission of the bid.

This bill would instead provide that a contractor that has its principal place of business in a state where there is a local contractor construction preference will be considered a "California company" if that contractor has paid not less than \$50,000 in sales or use taxes to this state for construction-related activity for each of the 5 years immediately preceding the submission of the bid.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 6107 of the Public Contract Code is amended to read:

6107. (a) As used in this section, “California company” means a sole proprietorship, partnership, joint venture, corporation, or other business entity that was a licensed California contractor on the date when bids for the public contract were opened and meets one of the following:

(1) Has its principal place of business in California.

(2) Has its principal place of business in a state in which there is no local contractor preference on construction contracts.

(3) Has its principal place of business in a state in which there is a local contractor construction preference and the contractor has paid not less than ~~five~~ fifty thousand dollars ~~(\$5,000)~~ (\$50,000) in sales or use taxes to California for ~~construction-related~~ *construction-related* activity for each of the five years immediately preceding the submission of the bid.

(b) (1) When awarding contracts for construction, a state agency shall grant a California company a reciprocal preference as against a nonresident contractor from any state that gives or requires a preference to be given contractors from that state on its public entity construction contracts.

(2) The amount of the reciprocal preference shall be equal to the amount of the preference applied by the state of the nonresident contractor with the lowest responsive bid, except where the resident contractor is eligible for a California small business preference, in which case the preference applied shall be the greater of the two, but not both.

(3) If the contractor submitting the lowest responsive bid is not a California company and has its principal place of business in any state that gives or requires the giving of a preference on its public entity construction contracts to contractors from that state, and if a California company has also submitted a responsive bid, and, with the benefit of the reciprocal preference, the California company’s bid is equal to or less than the original lowest responsive bid, the public entity shall award the contract to the California company at its submitted bid price.

(c) (1) The bidder shall certify, under penalty of perjury, that the bidder qualifies as a California company.

1 (2) A nonresident contractor shall, at the time of bidding,
2 disclose to the awarding agency any and all bid preferences
3 provided to the nonresident contractor by the state or country in
4 which the nonresident contractor has its principal place of business.

5 (d) The reciprocal preference is waived if the certification
6 described in paragraph (1) of subdivision (c) does not appear on
7 the bid.

8 (e) This section does not apply if application of this section
9 might jeopardize the receipt of federal funds or the nonresident
10 contractor certifies, under penalty of perjury, in its bid that its state
11 of residency does not give a preference for contractors from that
12 state on its public entity construction contracts.

13 (f) “Construction related activity” shall include, without
14 limitation, any activity for which a California contractors’ license
15 is required.